

14 April 1988

OCA 88-1117

MEMORANDUM FOR THE RECORD

SUBJECT: Berman Bill - Conversations With OMB

1. On 8 April 1988, I spoke with Sue Thau, Legislative Analyst, Office of Management and Budget (OMB) about two OMB Legislative Referrals Office concerning the Berman bill, H.R. 3651, the "Antiterrorism and Arms Export Amendment of 1988", sponsored by Representative Berman.

2. "State Edited Markup". With respect to the first, the "State-edited markup" of the bill, I advised her of the changes which had been agreed upon between the House Permanent Select Committee on Intelligence (HPSCI) and the House Foreign Affairs Committee (HFAC) which were outlined in OCA 88-9059 (29 March 1988). She accepted them for inclusion in the State draft.

3. Justice Letter. With respect to the second, the draft Justice views letter on the bill, I advised her that page three should be changed on to reflect the above. She asked me to forward the changes to her office but indicated that the Justice letter probably would not be cleared since it was being overtaken by the State letter as the most current statement of Administration position on the bill.

Legislation Division
Office of Congressional Affairs

OCA/LEG, [redacted] (14 April 1988)

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

URGENT

April 8, 1988

OCA 88-1037

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

Department of Defense (Brick 697-1305)	06
National Security Council	
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SUBJECT: State "edited markup" of the Berman-Hyde Substitute of H.R. 3651, "Antiterrorism and Arms Export Amendments of 1988."

- NOTE:
1. This "edited markup" was promised to the House Foreign Affairs Committee staff as soon as the recess ended, hence the short deadline.
 2. When cleared, this "edited markup" will be considered as an Administration proposal.
 3. This "edited markup" will supercede all other Administration reports on H.R. 3651.
 4. If your agency has not responded within the deadline we will assume you have no comment on the "edited markup" and procede to clear it.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than C.O.B., MONDAY, APRIL 11, 1988.

Questions should be referred to Sue Thau/Annette Rooney (395-7300), the legislative analyst in this office.

Ronald K. Peterson

RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosures

cc: J. Eisenhower
A. Donahue

United States Department of State

Washington, D.C. 20520

APR 7 1988

Dear Mr. Miller:

I hereby request OMB clearance to transmit informally to the House Foreign Affairs Committee the enclosed "edited markup" of the Berman-Hyde substitute bill of March 15, 1988. This Berman-Hyde substitute incorporates significant changes to the original and very objectionable bill introduced by Congressmen Berman, Fascell and Hyde last November. As a result of hearings before the HFAC on March 17, at which the Department opposed the original bill, and subsequent discussions between the HFAC staff and an interagency team (including State, DoD, Commerce, and CIA), it appears that it may be possible to develop a text that would be both acceptable to the HFAC and advantageous to the Executive Branch.

The enclosed copy of H.R. 3651 incorporates changes recommended by the Department of State. It includes (1) changes recommended in writing by the Justice Department, (2) changes suggested verbally by DoD, and (3) changes which the Department of State believes will meet the concerns of the CIA. The Department urges that the draft be circulated to these agencies and to the Department of Commerce to ensure that the changes are adequate for their purposes.

During the consultations with the HFAC staff, the Administration made one commitment: we would try to develop a text that we could actually support, working from the Berman-Hyde draft. The enclosed draft is an attempt to meet this objective. It should be understood, however, that the failure to adopt the significant changes proposed by the Administration would result in Administration opposition to the bill. This includes the necessary deletion of Section 6 on the 15-day prior notice of all FMS and MAP transfers and the unqualified retention of the Section 614 (FAA) waiver authorization, as well as agreeing on an adequate arrangement on CIA arms transfers.

Because the recommendations of the Department of Justice in its draft letter to the HFAC, circulated by OMB for clearance on March 31, are incorporated in its markup, the Department requests that OMB treat the State draft as superseding the requirement for the separate Justice Department letter.

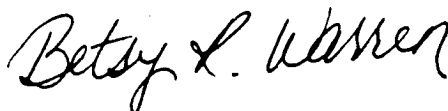
The Honorable

James C. Miller, III, Director,
Office of Management and Budget.

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We would like to transmit our recommendations to the HFAC on Monday April 11 if possible; committee markup is scheduled for April 19, but our views must be transmitted early if they are to be considered favorably. Accordingly, we request urgent clearance.

Sincerely,

A handwritten signature in cursive script, reading "Betsy R. Warren".

Betsy R. Warren
Acting Assistant Secretary
Legislative Affairs

Enclosure

3651AMDT

REVISED
BERMAN-HYDE BILL

[Discussion Draft--March 15, 1988]

AMENDMENT-IN-THE-NATURE-OF-A-SUBSTITUTE TO H.R. 3651

(Note: Changes to the text of H.R. 3651 as introduced are shown in *italic*, except for minor, technical changes)

Strike out all after the enacting clause and insert in lieu thereof the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Antiterrorism and Arms
3 Export Amendments Act of 1988".

4 SEC. 2. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES

5 SUPPORTING TERRORISM.

6 (a) PROHIBITION.--Section 40 of the Arms Export Control
7 Act (22 U.S.C. 2780) is amended to read as follows:

8 "SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF

9 INTERNATIONAL TERRORISM.

10 "(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES

11 GOVERNMENT.--The following transactions by the United States

12 Government are prohibited:

13 "(1) ~~Exporting or otherwise~~ providing (by sale,14 lease or loan, grant, or other means), ~~directly or~~15 ~~indirectly~~ any munitions item to a ^{government} ~~country~~ ^{of a country} described in16 subsection (d) under the authority of this Act ^{or} the

REPRODUCED AT GOVERNMENT EXPENSE